

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YURMAN STUDIO, INC. and YURMAN DESIGN, INC.,

Civil Action No. 07-1241 (SAS)(HP)
(Action No. 1)

Plaintiffs/Counter-Defendants,

- against -

ELENA CASTANEDA and EJEWELER LLC
d/b/a OVERSTOCKJEWELER.COM,

J
[PROPOSED] ORDER

Defendants/Counter-Plaintiffs.

CARTIER, a division of RICHEMONT NORTH AMERICA, INC., CARTIER INTERNATIONAL, N.V., CARTIER CREATION STUDIO, S.A., VAN CLEEF & ARPELS S.A., VAN CLEEF & ARPELS, INC., VAN CLEEF & ARPELS DISTRIBUTION, INC., GUCCI AMERICA, INC., and BULGARI S.p.A.,

Civil Action No. 07-7862 (SAS)(HP)
(Action No. 2)

Plaintiffs,

- against -

ELENA CASTANEDA and EJEWELER LLC
d/b/a OVERSTOCKJEWELER.COM,

Defendants.

X

WHEREAS, by letter dated August 26, 2008, plaintiffs Yurman Studio, Inc., Yurman Design, Inc., Cartier, a division of Richemont North America, Inc., Cartier International, N.V., Cartier Creation Studio, S.A., Van Cleef & Arpels S.A., Van Cleef & Arpels, Inc., Van Cleef & Arpels Distribution, Inc., Gucci America, Inc., and Bulgari S.p.A. (collectively "Plaintiffs") made an application to this Court for leave to re-open discovery in these consolidated actions for

the limited purpose of taking discovery as to Defendants' advice of counsel defense, as articulated in Defendants' counsel's June 6, 2008 letter; on page 13 of Defendants Castaneda and Ejeweler's Memorandum of Law in Opposition to Plaintiffs' Motion for Partial Summary Judgment; and on page 29 of Defendants Castaneda and Ejeweler's Memorandum of Law In Support of Motion for Partial Summary Judgment; and

WHEREAS, on August 28, 2008, the Court convened a conference call with the counsel for all parties to hear argument as to Plaintiffs' August 26, 2008 letter application; and

WHEREAS, the Court has considered all arguments presented by counsel in support of and in opposition to the relief requested by Plaintiffs.

NOW, THEREFORE, GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED THAT PLAINTIFFS' APPLICATION IS GRANTED TO THE EXTENT THAT:

1. Plaintiffs may seek production of documents in the possession, custody or control of Defendants, and/or in the possession, custody or control of Defendants' counsel or former counsel, relating to the advice of counsel on which Defendants now purport to rely, including without limitation, the advice (i) that Defendants could legally sell the jewelry designs at issue in this case, or any of them, given prior to Defendants having offered them for sale, and (ii) that the "disclaimer" posted on the Overstockjeweler.com website "was sufficient to prevent consumers from believing that [Defendants'] web-site or [Defendants'] jewelry products were in any way associated with, sponsored by or endorsed by Plaintiffs."

2. Plaintiffs may depose Defendants' former counsel, Thomas M. Saunders, Esq., relating to the advice Mr. Saunders gave Defendants on which they now purport to rely, including without limitation, the advice (i) that Defendants could legally sell the jewelry designs at issue in this case, or any of them, given prior to Defendants having offered them for sale, and

(ii) that the "disclaimer" posted on the Overstockjeweler.com website "was sufficient to prevent consumers from believing that [Defendants'] web-site or [Defendants'] jewelry products were in any way associated with, sponsored by or endorsed by Plaintiffs."

SO ORDERED:



SHIRA A. SCHEINDLIN, U.S.D.J.

Dated: September 5, 2008